

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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TODD FORD, JR., :  
Petitioner, : Civ. No. 20-12655 (NLH)  
v. : **MEMORANDUM OPINION & ORDER**  
 : **DENYING SEAL**  
WARDEN EUGENE CALDWELL, :  
Respondent. :  
:

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APPEARANCES:

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Attorneys for Petitioner

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Attorneys for Respondent

HILLMAN, District Judge

WHEREAS, Petitioner Todd Ford, Jr., filed a petition for writ of habeas corpus under 28 U.S.C. § 2241, ECF No. 1; and

WHEREAS, the Court lifted the stay on January 12, 2022 and ordered Petitioner to submit a supplemental brief in support of his petition, see ECF No. 36; and

WHEREAS, Petitioner filed a motion to seal Exhibit A of his supplemental brief, ECF No. 46. Petitioner argues “[t]he documents identified as Exhibit A . . . are considered confidential under the HIPAA privacy rules and not meant to be viewed by the public.” Id. at 3; and

WHEREAS, Respondent has not filed any opposition to the motion; and

WHEREAS, “[i]t is well-settled that there exists, in both criminal and civil cases, a common law public right of access to judicial proceedings and records. The public's right of access extends beyond simply the ability to attend open court proceedings. Rather, it envisions a pervasive common law right to inspect and copy public records and documents, including judicial records and documents.” In re Cendant Corp., 260 F.3d 183, 192 (3d Cir. 2001) (internal citations and quotation marks omitted); and

WHEREAS, a party seeking to seal portions of the judicial record from public view bears party “bears the heavy burden of

showing that the material is the kind of information that courts will protect and that disclosure will work a clearly defined and serious injury to the party seeking closure." Millhouse v. Ebbert, 674 F. App'x 127, 128 (3d Cir. 2017) (per curiam) (internal quotation marks and citations omitted); and

WHEREAS, the motion fails to comply with Local Civil Rule 5.3 by addressing all the required factors:

- (a) the nature of the materials or proceedings at issue;
- (b) the legitimate private or public interest which warrants the relief sought;
- (c) the clearly defined and serious injury that would result if the relief sought is not granted;
- (d) why a less restrictive alternative to the relief sought is not available;
- (e) any prior order sealing the same materials in the pending action; and
- (f) the identity of any party or nonparty known to be objecting to the sealing request.

L. Civ. R. 5.3(c)(3); and

WHEREAS, Petitioner has not submitted the proposed Exhibit A under a temporary seal, so the Court cannot assess whether the proposed Exhibit A qualifies for sealing under the Local Rule; and

WHEREAS, the Court will deny the motion to seal without prejudice. Petitioner may file a new motion to seal addressing

the Rule 5.3(c) factors with the proposed Exhibit A filed under a temporary seal pending further order of the Court; and

WHEREAS, Petitioner must file a new motion to seal within 14 days of this Order. Alternatively, Petitioner may forgo a motion to seal and file Exhibit A as is within 14 days; and

WHEREAS, the Court will stay the briefing schedule pending resolution of this issue,

THEREFORE, IT IS on this 30th day of March, 2022

ORDERED that Petitioner's motion to seal Exhibit A, ECF No. 46, is denied without prejudice; and it is further

ORDERED that Petitioner must file either a new motion to seal under Local Civil Rule 5.3 or the unsealed Exhibit A within 14 days from the date of this order; and it is finally

ORDERED that the briefing schedule previously issued, ECF No. 49, is stayed pending further order of the Court.

At Camden, New Jersey

s/ Noel L. Hillman  
NOEL L. HILLMAN, U.S.D.J.